

## **IC 5-15-6**

### **Chapter 6. Local Public Records Commissions**

#### **IC 5-15-6-1**

##### **County commissions of public records; creation; membership; meetings**

Sec. 1. (a) A commission is hereby created in each county of the state which shall be known as the county commission of public records of \_\_\_\_\_ county.

(b) The county commission shall consist, ex officio, of the judge of the circuit court, the president of the board of county commissioners, the county auditor, the clerk of the circuit court, the county recorder, the superintendent of schools of the school district in which the county seat is located and the city controller of the county seat city, and if there is no city controller, then the clerk-treasurer of the county seat city or town shall be a member of such commission.

(c) The commission shall elect one (1) of its members to be chairman and the clerk of the circuit court shall be secretary. The members of the county commission shall serve without compensation and shall receive no disbursement for any expense.

(d) The county commission shall meet at least one (1) time in each calendar year.

*(Formerly: Acts 1939, c.91, s.1; Acts 1955, c.319, s.1; Acts 1969, c.141, s.1; Acts 1972, P.L.41, SEC.1.) As amended by P.L.50-1991, SEC.3.*

#### **IC 5-15-6-1.2**

##### **"County commission" or "commission" defined**

Sec. 1.2. As used in this chapter, "county commission" or "commission" refers to the county commission of public records created by section 1 of this chapter.

*As added by P.L.50-1991, SEC.4.*

#### **IC 5-15-6-1.3**

##### **"Indiana state archives" defined**

Sec. 1.3. As used in this chapter, "Indiana state archives" has the meaning set forth in IC 5-15-5.1-1.

*As added by P.L.50-1991, SEC.5.*

#### **IC 5-15-6-1.4**

##### **"Local government" defined**

Sec. 1.4. As used in this chapter, "local government" means a political subdivision (as defined in IC 36-1-2-13).

*As added by P.L.50-1991, SEC.6.*

#### **IC 5-15-6-1.5**

##### **"Public record" or "record" defined**

Sec. 1.5. As used in this chapter, "public record" or "record" means a record (as defined in IC 5-15-5.1-1), except that "public

record" or "record" means local government rather than state government documentation.

*As added by P.L.50-1991, SEC.7.*

#### **IC 5-15-6-1.6**

##### **"Records management" defined**

Sec. 1.6. As used in this chapter, "records management" means a program to apply management techniques to the purchase, creation, utilization, maintenance, retention, preservation, and disposal of records undertaken to improve efficiency and reduce costs of record keeping, including management of the following:

- (1) Filing and microfilming equipment and supplies.
- (2) Filing and information retrieval systems.
- (3) Records.
- (4) Historical documentation.
- (5) Micrographic retention programming.
- (6) Critical records protection.

*As added by P.L.50-1991, SEC.8.*

#### **IC 5-15-6-1.7**

##### **"Retention schedule" defined**

Sec. 1.7. As used in this chapter, "retention schedule" has the meaning set forth in IC 5-15-5.1-1.

*As added by P.L.50-1991, SEC.9.*

#### **IC 5-15-6-2**

##### **Duties of county commission**

Sec. 2. (a) It shall be the duty of the county commission to determine the following:

- (1) Which public records, if any, are no longer of official or historical value.
- (2) Which public records are of current official value and should be retained in the office where they are required to be filed.
- (3) Which public records are of official value but are consulted and used so infrequently that they are no longer of appreciable value to the officer with whom they are required to be filed.
- (4) Which public records are of no apparent official value but which do have historical value.

(b) The county commission may request the assistance of the commission on public records established under IC 5-15-5.1 in developing records management programs.

*(Formerly: Acts 1939, c.91, s.2.) As amended by Acts 1979, P.L.40, SEC.17; P.L.50-1991, SEC.10.*

#### **IC 5-15-6-2.5**

##### **Retention schedules; records not covered under schedules; exceptions to schedules; documentation of disposition; jurisdiction over records**

Sec. 2.5. (a) The county commission shall adopt and implement

retention schedules for use by local government officials as part of a records management program for local government public records at the first meeting of the county commission after the commission receives a retention schedule for the local government approved by the oversight committee on public records as established by IC 5-15-5.1-18.

(b) All requests to destroy, transfer, or otherwise dispose of records that are not covered by an approved retention schedule are to be submitted to the county commission according to the procedure established under this chapter.

(c) Requests for exceptions to an approved retention schedule shall be submitted to the county commission. The commission may not consider requests for retention of records that are shorter in duration than the approved retention schedule.

(d) Local government officers shall submit documentation of destruction, transfer, or other disposal of records according to an approved retention schedule to the county commission with a copy submitted to the state archives.

(e) Whenever a local government includes parts of more than one (1) county, the commission of the county that contains the greatest percentage of population of the local government has jurisdiction over the records of the local government for the purposes of this chapter.

*As added by P.L.50-1991, SEC.11.*

### **IC 5-15-6-3**

#### **Destruction of records having no official or historical value**

Sec. 3. (a) As used in this section, "original records" includes the optical image of a check or deposit document when:

(1) the check or deposit document is recorded, copied, or reproduced by an optical imaging process described in subsection (e); and

(2) the drawer of the check receives an optical image of the check after the check is processed for payment or the depositor receives an optical image of the deposit document after the document has been processed for the deposit.

(b) All public records which, in the judgment of the commission, have no official or historical value, and which occupy space to no purpose in the offices and storerooms of the local government of a county, shall be destroyed or otherwise disposed of. Except as provided in this section, such records shall not be destroyed until a period of at least three (3) years shall have elapsed from the time when the records were originally filed, and no public records shall be destroyed within a period of three (3) years if the law provides that they shall be kept for a longer period of time, or if the law prohibits their destruction.

(c) Subject to this section, records may be destroyed before three (3) years elapse after the date when the records were originally filed if the destruction is according to an approved retention schedule.

(d) No financial records or records relating thereto shall be

destroyed until the earlier of the following actions:

(1) The audit of the records by the state board of accounts has been completed, report filed, and any exceptions set out in the report satisfied.

(2) The financial record or records have been copied or reproduced as described in subsection (e).

(e) As used in this section, "public records" or "records" includes records that have been recorded, copied, or reproduced by a photographic, photostatic, miniature photographic, or optical imaging process that correctly, accurately, and permanently copies, reproduces, or forms a medium for copying or reproducing the original record on a film or other durable material. Original records may be disposed of in accordance with subsection (f), if the record has been copied or reproduced as described in this subsection. The copy must be treated as an original. Copies, recreations, or reproductions made from an optical image of a public record described in this subsection shall be received as evidence in any court in which the original record could have been introduced, if the recreations, copies, or reproductions are properly certified as to authenticity and accuracy by an official custodian of the records.

(f) Original records may be disposed of only with the approval of the commission according to guidelines established by the commission. However, the guidelines established by the commission concerning the disposal of financial records must be approved by the state board of accounts before the guidelines become effective.

*(Formerly: Acts 1939, c.91, s.3; Acts 1955, c.319, s.2.) As amended by P.L.50-1991, SEC.12; P.L.74-1995, SEC.5; P.L.47-1997, SEC.1; P.L.10-1997, SEC.10; P.L.79-1998, SEC.9.*

#### **IC 5-15-6-4**

##### **Removal of records; time restriction**

Sec. 4. (a) Except as provided in subsection (b), no records shall be removed or transferred from any office until a period of at least three (3) years shall have elapsed from the date on which the records were filed, nor even after that time if the records are in frequent use by the officer having charge of the office.

(b) Records may be removed or transferred from any office before three (3) years elapse after the date on which the records were filed if the removal or transfer is according to an approved retention schedule.

*(Formerly: Acts 1939, c.91, s.4.) As amended by P.L.50-1991, SEC.13.*

#### **IC 5-15-6-5**

##### **Records having official value; state archives**

Sec. 5. Public records having an official value but which are used infrequently by the officer with whom they are filed or maintained shall, on order of the commission, be removed and transferred to the Indiana state archives.

*(Formerly: Acts 1939, c.91, s.5.) As amended by P.L.50-1991,*

SEC.14.

**IC 5-15-6-6**

**Records having historical value; state archives**

Sec. 6. Public records having no apparent official value, but having a historical value shall be transferred to and shall constitute a part of the Indiana state archives.

*(Formerly: Acts 1939, c.91, s.6.) As amended by P.L.50-1991, SEC.15.*

**IC 5-15-6-7**

**Orders of commission; historical or genealogical societies**

Sec. 7. (a) When any public records are ordered to be destroyed, removed, or transferred, the commission shall enter an order to that effect on its minutes, stating the date on which the order is entered and a general description of the public records which the commission orders to be destroyed, removed, or transferred.

(b) A copy of any order to destroy public records shall be delivered to:

- (1) the state archivist at the Indiana state archives;
- (2) any active genealogical society of the county; and
- (3) any active historical society of the county;

not later than sixty (60) days before the destruction date, accompanied by a written statement that the state archivist at the Indiana state archives or society may procure at its expense such records for its own purposes.

(c) The order delivered under subsection (b) must state that the records will be made available to the state archivist at the Indiana state archives, the genealogical society, or the historical society subject to the following provisions:

- (1) Genealogical or historical societies of the county which have an active organization shall have priority in the procuring of the public records.
- (2) If there is more than one (1) genealogical or historical society of the county with an active organization, the earliest established genealogical or historical society shall have priority in the procuring of the public records.
- (3) In order to procure all or part of the public records included in the order, a genealogical or historical society must offer to the Indiana state archives sufficient proof of ability to properly preserve the records in question, or the state archives may deny the records to the genealogical historical society and give priority to another historical society in the county or the state archivist at the Indiana state archives.
- (4) If within thirty (30) days of the delivery of the destruction order to the genealogical or historical society, the society has not notified the commission of an intent to procure all or part of the records included in the order, the state archivist at the Indiana state archives may upon request procure at the archive's expense the records for the archive's own purposes within the

remaining time in the sixty (60) day period.

(5) If a county historical society that has obtained records through the county commission subsequently wishes to destroy, transfer, or otherwise dispose of these records, the historical society shall submit a request to the county commission for authorization to destroy the records according to the procedure set forth in this chapter.

(6) Records obtained by a historical society under this chapter remain public records and are subject to all applicable public records laws.

*(Formerly: Acts 1939, c.91, s.7; Acts 1963, c.341, s.1.) As amended by P.L.51-1991, SEC.1; P.L.50-1991, SEC.16.*

#### **IC 5-15-6-8**

##### **Reckless, knowing, or intentional destruction or damage to public records; offense; exceptions**

Sec. 8. A public official or other person who recklessly, knowingly, or intentionally destroys or damages any public record commits a Class D felony unless:

(1) the commission shall have given its approval in writing that the public records may be destroyed;

(2) the commission shall have entered its approval for destruction of the public records on its own minutes; or

(3) authority for destruction of the records is granted by an approved retention schedule established under this chapter.

*(Formerly: Acts 1939, c.91, s.8.) As amended by P.L.50-1991, SEC.17.*

#### **IC 5-15-6-9 Repealed**

*(Repealed by P.L.50-1991, SEC.19.)*

#### **IC 5-15-6-10**

##### **Repealed**

*(Repealed by Acts 1978, P.L.2, SEC.521.)*

#### **IC 5-15-6-11**

##### **Application of chapter**

Sec. 11. This chapter does not apply to public records of a hospital established and operated under IC 16-22 and IC 16-23.

*As added by P.L.40-1992, SEC.1. Amended by P.L.2-1993, SEC.51; P.L.184-2005, SEC.1.*

#### **IC 5-15-6-12**

##### **Retention of compilation or creation of list or report; considerations**

Sec. 12. Notwithstanding any other provision of this chapter, a local government official is not required to retain a compilation or creation of a list or report if:

(1) the list or report:

(A) consists solely of information contained in public

records; and

(B) is generated by a computer program; and

(2) the compilation or creation does not result in the permanent electronic storage of the information.

*As added by P.L.58-1993, SEC.14.*